

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Newport News Division)

MICHAEL McCABE,

Plaintiff,

v.

Case No. 4:23cv111

RIVERSIDE HOSPITAL, INC.,
ORTHOPAEDIC & SPINE CENTER
NEWPORT NEWS | OSC, SENTARA
HEALTHCARE, CHILDREN'S HOSPITAL
OF THE KING'S DAUGHTERS,

Defendants.

MOTION TO DISMISS

NOW COME Defendant Sentara Health,¹ by and through the undersigned counsel, and respectfully move this Court for entry of an order dismissing the Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6)). The grounds for the Motion are more particularly set forth in the Memorandum of Law in Support of Motion to Dismiss, filed simultaneously herewith. As set forth in the accompanying Memorandum of Law, Sentara's Motion should be granted and the Complaint should be dismissed.

WARNING

Pursuant to Local Rule 7(K) and consistent with the requirements of Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Defendant (referred to below as the "moving party") advises Plaintiff (referred to below as the "*pro se* party") that this is a dispositive motion and that: (1) the *pro se* party is entitled to file a response opposing the motion and

¹ The Plaintiff brought this suit against Sentara Healthcare. The entity's correct legal name is Sentara Health.

that any such response must be filed within twenty-one (21) days of the date on which the dispositive or partially dispositive motion is filed; (2) the Court could dismiss the action on the basis of the moving party's papers if the *pro se* party does not file a response; (3) the *pro se* party must identify all facts stated by the moving party with which the *pro se* party disagrees and must set forth the *pro se* party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and (4) the *pro se* party is also entitled to file a legal brief in opposition to the one filed by the moving party.

Dated: October 2, 2023

Respectfully submitted,

/s/

Jason E. Ohana (VSB #82485)
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2023, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, and will send notification of such filing via U.S. Mail to the following:

Michael McCabe, *pro se*
218 Center Avenue
Newport News, VA 23601

/s/

Jason E. Ohana (VSB #82485)
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